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Human Rights Committee

Consideration of reports submitted by States parties under article 40 of the Covenant

Fourth periodic reports of State parties due in 2009

Democratic Republic of the Congo*

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Introduction

1. The Charter of the United Nations, the original source of inspiration for all human rights instruments, places an obligation on States to promote universal respect for, and observance of, human rights and fundamental freedoms.

2. For its part, the Democratic Republic of the Congo has ratified and incorporated in its legislation several international human rights instruments, including the International Covenant on Civil and Political Rights.

3. In this context, the fourth periodic report of the Democratic Republic of the Congo on the implementation of the International Covenant on Civil and Political Rights details both how the Congolese State has specifically incorporated those rights and freedoms in its national legislation, and the proper measures taken to respect, protect and promote them.

Section One — Effective implementation of the Covenant

Chapter I: Fundamental rights

Part I

Article 1: Right of peoples to self-determination

4. Article 1 of the Constitution of the Democratic Republic of the Congo states:

> "The Democratic Republic of the Congo is, within its borders of 30 June 1960, a State based on the rule of law, independent, sovereign, united, indivisible, social, democratic and secular. Its emblem is the sky-blue flag adorned with a yellow star in the upper left corner and crossed diagonally by a red stripe lightly framed in yellow. Its motto is 'Justice — Peace — Work'. Its coat of arms consists of a leopard's head framed to the left by an ivory tusk and to the right by a spear, all of which rests on a stone. Its anthem is '*Debout Congolais!*' Its currency is the Congolese franc. Its official language is French. Its national languages are Kikongo, Lingala, Swahili and Tshiluba. The State ensures their promotion without discrimination. The other languages of the country are part of the Congolese cultural heritage, which is guaranteed protection by the State."

5. Article 9 of the Constitution states:

> "The State exercises permanent sovereignty over the Congolese soil, subsoil, waters and forests, air, river, lake and maritime spaces, as well as the Congolese territorial sea and continental shelf."
>
> The conditions for the management and concession of the State domain referred to in the preceding paragraph are determined by law."

6. Article 5 of Organic Act No. 08/016 of 7 October 2008 on the composition, organization and functioning of decentralized territorial entities and their relationship with the State and the provinces provides that:

> "A territory, district, grouping and village are decentralized territorial entities without legal personality. A city, commune, sector and chieftaincy are decentralized territorial entities with legal personality. They enjoy freedom of administration and autonomy in managing their human, economic, financial and technical resources."

Part II

Article 2: Principle of non-discrimination

7. Article 11 of the Constitution states:

"All human beings are born free and equal in dignity and in rights. However, the enjoyment of political rights is recognized to Congolese only, save for the exceptions established by law."

8. Article 12 of the Constitution states:

"All Congolese are equal before the law and are entitled to equal protection of the law."

9. Article 32 of the Constitution states:

"All foreigners lawfully present on Congolese territory enjoy the protection granted to individuals and their property under the conditions determined by treaties and laws. They are obliged to comply with the laws and regulations of the Republic."

Article 3: Equality of rights between men and women

10. Article 14, third and fourth paragraphs, of the Constitution states:

"Women are entitled to equitable representation in national, provincial and local institutions.

The State guarantees the achievement of parity between men and women in such institutions."

Article 4: Derogations from the provisions of the Covenant

11. Article 61 of the Constitution states:

"Under no circumstances, even when a state of siege or a state of emergency has been declared in accordance with articles 85 and 86 of this Constitution, may there be any derogation from the following fundamental rights and principles:

(1) The right to life;

(2) The prohibition of torture and cruel, inhuman or degrading treatment or punishment;

(3) The prohibition of slavery and servitude;

(4) The principle that offences and penalties must be defined by law;

(5) The rights of the defence and the right of appeal;

(6) The prohibition of imprisonment for debt;

(7) Freedom of thought, conscience and religion."

12. Article 85 of the Constitution states:

"When grave circumstances pose an immediate threat to the independence or integrity of national territory, or cause the disruption of the regular functioning of institutions, the President of the Republic shall declare a state of emergency or a state of siege following consultation with the Prime Minister and the Presidents of the two Chambers, in accordance with articles 144 and 145 of this Constitution. He shall so inform the nation in an address. The rules governing the implementation of a state of emergency or state of siege are determined by law."

Chapter II: Substantive provisions

Part III

Article 6: Right to life — death penalty

13. Article 16, first and second paragraphs, of the Constitution stipulates that:

> "The human person is sacred. The State has an obligation to respect and protect the human person.
>
> All persons have the right to life and physical integrity, as well as the free development of their personality in a context of respect for the law, public order, the rights of others and morality."

14. Article 61, first paragraph, of the Constitution provides that:

> "Under no circumstances, even when a state of siege or a state of emergency has been declared in accordance with articles 85 and 86 of this Constitution, may there be any derogation from … the right to life."

15. Similarly, article 9, paragraph 2, of Act No. 09/001 of 10 January 2009 on child protection states:

> "The death penalty and life imprisonment cannot be imposed for offences committed by a child."

Article 7: Prohibition of torture

16. Article 33, fourth paragraph, of the Constitution provides that:

> "No one, under any circumstances, may be sent to the territory of a State where he or she is in danger of being subjected to torture or cruel, inhuman or degrading treatment or punishment."

17. Article 61, second paragraph, of the Constitution provides that:

> "Under no circumstances, even when a state of siege or a state of emergency has been declared in accordance with articles 85 and 86 of this Constitution, may there be any derogation from … [the principle of] the prohibition of torture and cruel, inhuman or degrading treatment or punishment."

18. Finally, article 1 of Act No. 11/008 of 9 July 2011 criminalizing torture provides that:

> "Any public servant, public official or person responsible for a public service, or anyone acting on their orders, at their instigation or with their express or tacit consent, who has intentionally inflicted severe pain or suffering, whether physical or mental, on a person for such purposes as obtaining from him or a third person information or a confession, punishing him for an act he or a third person has committed or is suspected of having committed, or intimidating or coercing him or a third person, or for any reason based on discrimination of any kind, shall be punished by a term of imprisonment of 5 to 10 years and a fine of 5,000 to 100,000 Congolese francs. The perpetrator shall be punished by a term of imprisonment of 10 to 20 years and a fine of 100,000 to 200,000 Congolese francs if the acts mentioned have caused the victim serious trauma or led to illness, a permanent incapacity to work, or physical or psychological impairment, or if the victim is a pregnant woman, a minor, an elderly person or a person living with a disability. A

penalty of life imprisonment shall be imposed if the same acts have caused the death of the victim."

Article 8: Prohibition of slavery and servitude

19. Article 16, third and fourth paragraphs, of the Constitution provides that:

"No one may be held in slavery or in a similar condition. No one may be subjected to cruel, inhuman or degrading treatment. No one may be compelled to perform forced or compulsory labour."

20. Article 183 of Act No. 09/001 of 10 January 2009 on child protection provides that:

"The sexual enslavement of a child shall be punished by a term of imprisonment of 10 to 20 years and a fine of 800,000 to 1 million Congolese francs. Sexual slavery is the act of a person exercising one or all the powers associated with ownership rights over a child, in particular by imprisonment or deprivation of liberty, or by buying, selling, lending or bartering the child for sexual purposes, and compelling him or her to perform one or more acts of a sexual nature."

21. Article 174 of Act No. 06/018 of 20 July 2006 amending the Decree of 30 January 1940 on the Congolese Criminal Code provides that:

"Anyone who has exercised one or all the powers associated with the right of ownership over a person, in particular through imprisonment or similar deprivation of liberty, or by buying, selling, lending or bartering the person concerned for sexual purposes, and has compelled him or her to perform one or more acts of a sexual nature, shall be punishable by a term of imprisonment of 5 to 20 years and a fine of 200,000 constant Congolese francs."

Article 9: Right to liberty and security of person

22. Article 17 of the Constitution states:

"Individual liberty is guaranteed. Liberty is the rule, detention the exception. No one may be prosecuted, arrested, detained or convicted other than by law and in the form prescribed by law. No one may be prosecuted for an act of commission or omission that did not constitute an offence at the time when it was committed and at the time of the proceedings. No one may be sentenced for an act of commission or omission that did not constitute an offence both at the time when it was committed and at the time of sentencing. No heavier penalty may be imposed than the one that was applicable at the time of commission of the offence. Execution of a penalty shall cease when, under legislation that post-dates the judgment:

(1) The penalty is revoked;

(2) The act in respect of which it was imposed ceases to be a criminal offence.

Where a penalty is reduced under legislation that post-dates the judgment, the penalty shall be executed in accordance with the new legislation. Criminal liability is individual. No one may be subjected to prosecution, arrest, detention or punishment for the act of another person. Anyone accused of an offence shall be presumed innocent until guilt has been established in a final judgment."

23. Article 18 of the Constitution states:

"All arrested persons must be informed immediately of the reasons for their arrest and of any charges brought against them in a language that they understand. They must immediately be informed of their rights. Persons held in custody have the right to make immediate contact with their family or counsel. Custody may not exceed 48

hours. On expiry of that period, the person in custody must be released or placed at the disposal of the competent judicial authority. The treatment accorded all detainees must guarantee their life, physical and mental health and dignity."

24. Article 19 of the Constitution states:

"No one may be removed or reassigned against his or her will from the jurisdiction of the court designated by law. All persons have the right to have their case heard within a reasonable time by a competent judge. The right to a defence is organized and guaranteed. All persons have the right to defend themselves or to be assisted by counsel of their choice, at every stage in criminal proceedings, including police and pretrial investigations. They may also be assisted when they appear before the security services."

25. Article 21 of the Constitution states:

"All judgments shall be written and reasoned. They shall be delivered in public hearings. The right to appeal against a judgment is guaranteed to all and shall be exercised under the conditions established by law."

26. Article 61, fifth paragraph, of the Constitution states:

"Under no circumstances, even when a state of siege or a state of emergency has been declared in accordance with articles 85 and 86 of the present Constitution, may there be any derogation from ... the rights of the defence and the right of appeal."

Article 10: Treating detainees with humanity

27. Article 16 of the Constitution states:

"The human person is sacred. The State has an obligation to respect and protect the human person. All persons have the right to life and physical integrity, as well as the free development of their personality in a context of respect for the law, public order, the rights of others and morality. No one may be held in slavery or in a similar condition. No one may be subjected to cruel, inhuman or degrading treatment. No one may be compelled to perform forced or compulsory labour."

28. Article 18, fourth paragraph, of the Constitution states:

"The treatment accorded all detainees must guarantee their life, physical and mental health and dignity."

29. Article 113, point 5, of Act No. 09/001 of 10 January 2009 on child protection provides that:

"In the eight days following the consideration of a case, the judge may place a child in a State custodial and educational establishment for a period not extending beyond his or her eighteenth year."

30. Apart from the legal and constitutional provisions cited above, specific action has been taken to humanize detention conditions, including the organization of a mother and child wing at the Kinshasa Penitentiary and Re-education Centre for female detainees accompanied by their children, with the support of the United Nations Organization Stabilization Mission in the Democratic Republic of the Congo (MONUSCO), and the development of a national plan to renovate prisons.

Article 11: Prohibition of imprisonment/civil domain

31. Article 61, sixth paragraph, of the Constitution states:

> "Under no circumstances, even when a state of siege or a state of emergency has been declared in accordance with articles 85 and 86 of the present Constitution, may there be any derogation from … [the principle of] the prohibition of imprisonment for debt."

Article 12: Freedom of movement

32. Article 30 of the Constitution states:

> "All persons present on the national territory have the right to circulate freely therein, to establish their residence there, to leave and return to it under the conditions established by law. No Congolese citizen may be expelled from the territory of the Republic, or forced into exile, or be compelled to reside outside his or her habitual residence."

Article 13: Freedom of circulation and residence and the rights of foreigners

33. Article 32 of the Constitution states:

> "All foreigners lawfully present on national territory enjoy the protection granted to individuals and their property under the conditions defined by the treaties and laws. They are required to comply with the laws and regulations of the Republic."

Article 14: Right to a fair trial

34. Article 12 of the Constitution states:

> "All Congolese are equal before the law and are entitled to equal protection of the law."

35. Article 17, paragraph 9, of the Constitution states:

> "Anyone accused of an offence shall be presumed innocent until guilt has been established in a final judgment."

36. Article 18 of the Constitution states:

> "All arrested persons must be informed immediately of the reasons for their arrest and of any charges brought against them in a language that they understand. They must immediately be informed of their rights. Persons held in custody have the right to make immediate contact with their family or counsel. Custody may not exceed 48 hours. On expiry of that period, the person in custody must be released or placed at the disposal of the competent judicial authority. The treatment accorded all detainees must guarantee their life, physical and mental health and dignity."

37. Article 19, second and fourth paragraphs, of the Constitution states:

> "All persons have the right to have their case heard within a reasonable time by a competent judge. All persons have the right to defend themselves or to be assisted by counsel of their choice, at every stage in criminal proceedings, including police and pretrial investigations."

38. Article 21 of the Constitution states:

> "All judgments shall be written and reasoned. They shall be delivered in public hearings. The right to appeal against a judgment is guaranteed to all and shall be exercised under the conditions established by law."

39. Organic Act No. 013/11-B of 11 April 2013 concerning the organization, functioning and competence of ordinary courts makes it possible for parties to proceedings to challenge the judge, if they are not convinced of the latter's impartiality.

40. Article 15 of the Decree of 7 March 1960 on the Code of Civil Procedure provides that:

> "The parties are heard in adversarial proceedings. They may make written submissions."

41. Article 80 of the same Decree provides that "anyone may enter a third-party challenge to a judgment that is prejudicial to his or her rights, if neither the individual concerned, nor the party he or she represents, has been given notice to appear."

42. Article 73 of the Decree of 6 August 1959 on the Code of Criminal Procedure provides that:

> "Each of the parties may be assisted by persons specially authorized by the court in each case to represent them. Unless the defendant objects, the judge may appoint a defender from among leading citizens of the area in which the court sits. If the defender so appointed is an official of the Belgian Congo, he or she may not refuse the appointment, on penalty of appropriate disciplinary action."

43. Circular No. 001/D008/IM/PGR of 31 March 2006 on new models for records of arrest and provisional arrest warrants draws attention to the judiciary's role as guarantor of citizens' individual freedoms and fundamental rights.

Article 15: The principle of non-retroactivity of the law and the principle that offences and penalties must be defined by law

44. Article 17, third and fourth paragraphs 4, of the Constitution states:

> "No one may be prosecuted for an act of commission or omission that did not constitute an offence at the time when it was committed and at the time of the proceedings. No one may be sentenced for an act of commission or omission that did not constitute an offence both at the time when it was committed and at the time of sentencing."

Article 16: Recognition as a person before the law

45. Article 594 of Act No. 87-010 of 1 August 1987 on the Family Code provides that the law presumes that a child has been conceived in the period between the 300th and 180th day, inclusive, prior to the date of birth. Conception is presumed to have taken place at any time during that period, according to what is requested in the interests of the child.

Article 17: The right to privacy

46. Article 29 of the Constitution of the Democratic Republic of the Congo states that:

> "The home shall be inviolable. No entry or search may be conducted other than in the forms and under the conditions provided for by law."

47. Article 31 of the Constitution of the Democratic Republic of the Congo states that:

> "All persons have the right to respect for their privacy and the confidentiality of correspondence, telecommunications and any other form of communication. This right may be infringed only in the cases provided for by law."

48. Article 26 of Act No. 08/011 of 14 July 2008 on the protection of the rights of persons living with or affected by HIV/AIDS states that:

> "Any employer or anyone who, by virtue of his or her functions, has access to the files of an employee or the latter's family members, shall respect the confidential nature of information on their HIV status. The same applies to persons who, by

virtue of their status or profession, are entrusted with related confidential information."

Article 18: Freedom of thought, conscience and religion

49. Article 22 of the Constitution of the Democratic Republic of the Congo states that:

> "Everyone shall have the right to freedom of thought, conscience and religion. Everyone shall have the right to manifest their religion or beliefs, individually or in a group, in public or in private, through worship, teaching, practices, the observance of rites and a religious life, subject to respect for the law, public order, morality and the rights of others. The modalities for the exercise of these freedoms shall be established by law."

50. Article 61, seventh paragraph, of the Constitution of the Democratic Republic of the Congo states that:

> "Under no circumstances, even when a state of siege or a state of emergency has been declared in accordance with articles 85 and 86 of this Constitution, may there be any derogation from ... [the fundamental principle of] freedom of thought, conscience and religion."

Article 19: Freedom of expression and opinion

51. Article 23 of the Constitution of the Democratic Republic of the Congo states that:

> "Everyone has the right to freedom of expression. This right entails the freedom to express personal opinions or beliefs, orally, in writing or through images, subject to respect for the law, public order and morality."

Article 20: Prohibition of propaganda for war and of incitement to national, racial or religious hatred

52. Article 52, second paragraph, of the Constitution of the Democratic Republic of the Congo provides that:

> "No individual or group of individuals may use a part of the national territory as a base for subversive or terrorist activities against the Congolese State or any other State."

53. Article 1 of Ordinance-Law No. 66/342 of 7 June 1966 on the prohibition of racism and tribalism provides that:

> "Anyone who, through the use of words, gestures, writing, images, or emblems, or any other means, displays racial, ethnic, tribal or regional aversion or hatred, or commits an act such as to promote such aversion or hatred, shall be sentenced to a term of imprisonment of 1 month to 2 years and/or a fine of 5 cents to 10,000 francs."

Article 21: Right of peaceful assembly

54. Article 25 of the Constitution of the Democratic Republic of the Congo states that:

> "The right of peaceful, unarmed assembly shall be guaranteed, subject to respect for the law, public order and morality."

55. Article 26 of the Constitution of the Democratic Republic of the Congo states that:

> "The freedom to demonstrate shall be guaranteed. The organizers of all demonstrations on the public highway or in the open air shall inform the competent

administrative authority in writing. No one may be forced to take part in a demonstration. Implementing measures shall be established by law."

56. Article 6 of Act No. 001-2001 of 17 May 2001 on the organization and functioning of political parties and groups states that:

"Political parties and groups shall freely carry out their activities across the whole of the national territory. They shall be entitled to equal treatment by the State and the public services."

Article 22: Freedom of association/trade unions

57. Article 37 of the Constitution of the Democratic Republic of the Congo states that:

"The State shall guarantee the freedom of association. The public authorities shall work with associations that contribute to the social, economic, intellectual, moral and spiritual development of the population and to the education of citizens. Such cooperation may take the form of subsidies. The modalities for the exercise of this freedom shall be established by law."

58. Article 38 of the Constitution of the Democratic Republic of the Congo states that:

"The right to organize is recognized and guaranteed. All Congolese citizens have the right to freely form or join trade unions, under the conditions established by law."

59. Article 233 of Act No. 015/2002 on the Labour Code states that:

"All workers or employers, without discrimination, have the right to join or leave a professional organization of their choice."

Article 23: The right to marry and to found a family

60. Article 40 of the Constitution of the Democratic Republic of the Congo states that:

"All individuals have the right to marry the person of the opposite sex of their choice and to found a family. The family, the fundamental unit of human society, shall be organized in such a way as to ensure its unity, stability and protection and shall be placed under the protection of the public authorities. The care and the education to be given to children constitute a natural right for parents and a duty to be exercised by them under the supervision and with the assistance of the public authorities. Children have a duty to assist their parents. The rules governing marriage and the organization of the family shall be established by law."

61. Article 349 of Act No. 87-010 of 1 August 1987 on the Family Code states that:

"The essential aim of marriage is to create a union between a man and a woman, who undertake to live together until one of them dies, to share their common destiny and to perpetuate the species."

62. Article 8 of Act No. 08/011 of 14 July 2008 on the protection of the rights of persons living with or affected by HIV/AIDS states that:

"In accordance with article 40 of the Constitution, persons living with or affected by HIV/AIDS have the right to marry and procreate, on the basis of informed consent."

Article 24: Children's rights

63. Article 41 of the Constitution of the Democratic Republic of the Congo states that:

"A minor is any person, without distinction as to sex, who has not yet attained 18 years of age. All minors have the right to know the names of their mother and father.

They also have the right to enjoy the protection of their family, society and the public authorities. The abandonment and mistreatment of children, in particular paedophilia, sexual abuse and accusations of witchcraft, shall be prohibited and punished by law. Parents have a duty to care for their children and to protect them against any act of violence, both inside and outside the home. The public authorities have a duty to ensure that children in difficult situations are protected and to bring perpetrators of and persons complicit in acts of violence against children to trial. All other forms of child exploitation shall be punished by law."

64. Article 16 of Act No. 09/001 of 10 January 2009 on the protection of children states that:

"All children have the right to be registered in the civil registry within 90 days of birth, in accordance with the law. Registration shall be carried out free of charge."

65. Article 3 of Act No. 015/2002 of 16 October 2002 on the Labour Code states that:

"'All the worst forms of child labour shall be abolished'. The expression 'worst forms of child labour' shall cover:

(a) All forms of slavery or practices similar to slavery, such as the sale and trafficking of children, debt bondage and serfdom and forced or compulsory labour, including forced or compulsory recruitment of children for use in armed conflict;

(b) The use, procuring or offering of a child for prostitution, for the production of pornography or for pornographic performances or obscene dances;

(c) The use, procuring or offering of a child for illicit activities, in particular for the production and trafficking of drugs;

(d) Work which, by its nature or the circumstances in which it is carried out, is likely to harm the health, safety, dignity or morals of children."

Article 25: The right to take part in public affairs/vote

66. Article 5 of the Constitution of the Democratic Republic of the Congo provides that:

"National sovereignty is vested in the people. All power springs from the people, who may exercise it directly by means of referendum and election, and indirectly through their representatives. No one group or individual may arrogate that power to themselves. The conditions for the organization of elections and referendums shall be established by law. Suffrage shall be universal, equal and secret. It shall be direct or indirect. Without prejudice to the provisions of articles 72, 102 and 106 of this Constitution, subject to the conditions determined by law, all Congolese nationals, of either sex, aged 18 or over, who are in possession of their civil and political rights, shall be entitled to vote and to be elected."

67. Article 13 of the Constitution of the Democratic Republic of the Congo states that:

"In education, access to public posts and any other sphere, no Congolese national shall be subject to discriminatory measures, whether on the basis of a law or executive action, on the grounds of religion, family origin, social status, residence, opinions or political beliefs or membership of a race, ethnic group, tribe or cultural or linguistic minority."

68. Article 1 of Act No. 001-2001 of 17 May 2001 on the organization and functioning of political parties and groups states that:

"Political pluralism is recognized and guaranteed in the Democratic Republic of the Congo. In particular, it is reflected in the political parties or groups governed by the provisions of this Act."

Article 26: Equality before the law without any discrimination

69. Article 12 of the Constitution of the Democratic Republic of the Congo states that:

"All Congolese are equal before the law and are entitled to equal protection of the law."

Article 27: Rights of minorities

70. Article 51 of the Constitution of the Democratic Republic of the Congo provides that:

"The State has a duty to safeguard and promote the peaceful and harmonious coexistence of all the country's ethnic groups and shall also guarantee the protection and promotion of vulnerable groups and all minorities, while fostering their development."

Section Two — The Committee's previous concluding observations: Analysis of progress made

Recommendation 1

The State party should maintain and improve the training programme for judges and lawyers, including those who are already employed, about the contents of the Covenant and other international human rights instruments ratified by the Democratic Republic of the Congo. The Committee expects that more complete information on the actual remedies available to individuals in cases of human rights violations under the Covenant will be provided in the next periodic report, together with concrete examples of cases where the courts have invoked the provisions of the Covenant and clarifications concerning the functioning of the customary courts.

71. The legislative framework incorporates the contents of all of the provisions of the International Covenant on Civil and Political Rights, as ratified by the Democratic Republic of the Congo.

72. Consequently, the rights enshrined in the Covenant are guaranteed under domestic law and invoked before the courts and tribunals through the remedies created for that purpose, that is to say, ordinary and extraordinary remedies.

73. Article 21 of the Constitution of the Democratic Republic of the Congo states that:

"All judgments shall be written and reasoned. They shall be delivered in public hearings. The right to appeal against a judgment is guaranteed to all and shall be exercised under the conditions established by law."

74. Articles 61 to 84 of the Decree of 7 March 1960 on the Code of Civil Procedure establish remedies relating to civil matters and articles 88 to 108 of the Decree of 6 August 1959 on the Code of Criminal Procedure establish remedies relating to criminal matters.

75. As to the customary courts, the State party observes that they only operate in those regions of the Republic not covered by the judicial system. The State party notes that these customary courts will gradually disappear as a matter of course as district courts are set up in those regions of the Republic. However, the customary courts rule on the basis of

customary law and appeals lodged against their rulings are considered by the nearest district court.

Recommendation 2

The State party should follow up on the Committee's recommendations in the above-mentioned cases and submit a report thereon to the Committee as soon as possible. The State party should also accept a mission by the Committee's special rapporteur to follow up the Views and discuss possible ways and means of implementing the Committee's recommendations, with a view to ensuring more effective cooperation with the Committee.

76. The State party reiterates its resolve in this regard, as expressed since 2006, and accepts the Committee's proposal relating to the appointment of a special rapporteur to examine the cases in question.

Recommendation 3

The State party should take all appropriate steps to ensure that all human rights violations brought to its attention are investigated, and that those responsible for such violations are prosecuted and punished.

77. The Democratic Republic of the Congo has taken appropriate steps to ensure that all human rights violations brought to its attention are investigated.

78. One of the above-mentioned steps taken in the Democratic Republic of the Congo was the criminalization of all human rights violations.

79. Furthermore, in the interests of strengthening punitive measures, legislation has been introduced criminalizing types of conduct that were not previously considered to be public order offences, in particular Act No. 09-001 of 10 January 2009 on child protection, Act No. 11-008 of 9 July 2011 criminalizing torture and Act No. 06/018 of 20 July 2006 on sexual violence.

80. Moreover, Organic Act No. 13/011-B of 11 April 2013 on the organization, functioning and jurisdiction of the courts of law was adopted, granting the Court of Appeal first-instance jurisdiction over international crimes, which previously came within the sole purview of military courts.

81. Thus, in recent years, as a result of the implementation of these measures, several criminal cases have been opened, resulting in a significant number of convictions.

82. The convictions relating to the Mitnova cases provide an example in that regard. The Democratic Republic of the Congo has ratified the Rome Statute of the International Criminal Court and cooperates with that body in an exemplary manner.

83. To date, the Democratic Republic of the Congo has transferred more prisoners to the International Criminal Court than any other country, including Bosco Ntanganda, Matthieu Ngonjolo and Thomas Lubanga.

Recommendation 4

(a) The State party should speed up the process of adapting the Family Code to international legal instruments, especially articles 3, 23 and 26 of the Covenant, in particular with regard to the rights of both spouses within marriage (paragraph 48 of the report) and the quasi-impunity of forced marriage.

(b) The State party should increase its efforts to promote women's participation in political affairs and their access to education and employment. In its

next report, the State party should inform the Committee of any relevant actions taken and their outcomes.

84. In order to ensure that women fully enjoy equal rights with men, article 14 of the Constitution of the Republic explicitly recognizes parity between men and women in all spheres of national life and the right to the equitable representation of women within institutions.

85. In the light of that right, the Democratic Republic of the Congo has made every effort to ensure effective parity between men and women. Act No. 015/013 on the modalities for the implementation of women's rights and parity was promulgated by the Head of State on 15 August 2015. In practice, four women have recently been made generals: three in the Armed Forces of the Democratic Republic of the Congo and one in the Congolese national police:

- Ms. Odette Kamon Mukaz, serial No. 2196500709208, appointed to the post of Divisional Commander by Order No. 13/093 of 7 July 2013 on appointment to the rank of Divisional Commander of the Congolese national police;
- Ms. Bolingo Lessere Ndu, serial No. 2506638622200, appointed Brigadier General by Order No. 13/089 of 7 July 2013 on appointment to the rank of General in the Armed Forces of the Democratic Republic of the Congo;
- Ms. Micheline Sasa, serial No. 249663965100, appointed Brigadier General by Order No. 13/089 of 7 July 2013 on appointment to the rank of General in the Armed Forces of the Democratic Republic of the Congo;
- Ms. Marie Josée Mbuyi Tshivuadi, serial No. 257757172100, appointed Brigadier General by Order No. 13/094 of 7 July 2013 on appointment to the rank of General in the Armed Forces of the Democratic Republic of the Congo.

86. Furthermore, the principle of women's representation is already enshrined in the texts governing all the institutions supporting democracy and the Economic and Social Council.

87. As to the Family Code, on 31 March 2014 the Government submitted a bill to Parliament on the revision of that text, in order to bring it into line with the international legal instruments, in particular with regard to the respective rights of both spouses within marriage.

88. Moreover, the Democratic Republic of the Congo has taken a number of measures in this field, including:

- Promulgation of Act No. 08-005 of 10 July 2008 on funding for political parties, under which political parties are required to take women into account when drawing up electoral lists;
- Promulgation of Organic Act No. 13-011 of 21 March 2013 on the creation of the National Human Rights Commission, which provides for a specific quota for women members;
- Promulgation of Act No. 13/011 of 21 March 2013 on the creation, organization and functioning of the National Economic and Social Council, which also provides for a specific quota for women members;
- Promulgation of Organic Act No. 13-012 of 19 April 2013 amending and supplementing Organic Act No. 20-013 of 21 July 2010 on the organization and functioning of the Independent National Electoral Commission, which takes into account issues relating to parity;

- Preparation and approval by the Government of the National Strategy for Women's Participation in Political Governance in 2010;
- Implementation of an integrated rural development policy and a national strategy for 2008-2012.

Recommendation 5

The State party should adopt the draft law prohibiting and punishing domestic and sexual violence. Adequate protection of victims should also be provided for. The State party should engage in a policy of prosecution and punishment of such violence, in particular by providing the police with clear guidelines on the matter, together with awareness-raising and other training.

89. In the Democratic Republic of the Congo, sexual violence is punished under the Congolese Criminal Code. The main texts in that regard are:

- Act No. 06-18 of 20 July 2006, amending and supplementing the Decree of 30 January 1940 on the Congolese Criminal Code;
- Act No. 06-19 of 20 July 2006, amending and supplementing the Decree of 6 August 1959 on the Congolese Code of Criminal Procedure. All of these statutes criminalize sexual violence and provide for a period of imprisonment of 5 to 20 years for rape.

90. As to prosecutions, the Government of the Republic has undertaken to combat impunity for crimes of sexual violence, including through high-level commitments made by the President of the Republic and other authorities to the Special Representative of the Secretary-General on Sexual Violence in Conflict.

91. In order to strengthen that commitment, on 30 March 2013 the Government of the Democratic Republic of the Congo and the United Nations signed a Joint Communiqué on the Fight Against Sexual Violence in Conflict, in which the Government undertook to ensure that perpetrators of crimes of sexual violence are held to account for their acts, in particular through the strengthening of the units of the Special Police for the Protection of Women and Children.

92. Likewise, the members of the Armed Forces of the Democratic Republic of the Congo under the command of Lieutenant Colonel Daniel Kibibi Mutware who, on 1 and 2 January 2011, attacked the town of Fizi, in Sud-Kivu Province, and raped more than 50 women, were tried and convicted of rape by the military court of Sud-Kivu Province, following circuit hearings held at Baraka in February 2011.

93. Four of those soldiers, including Lieutenant Colonel Kibibi Mutware, were sentenced to 20 years' imprisonment, two to 15 years' imprisonment and three others to 10 years' imprisonment.

94. Likewise, in a ruling of 15 May 2014 issued as RP No. 003-2013, the operational military court of Nord-Kivu sentenced 27 members of the Armed Forces of the Democratic Republic of the Congo to terms of imprisonment of 5 to 20 years and, in some cases, to life imprisonment, for offences of rape, looting and murder committed in Minova, Sud-Kivu Province.

95. Since 2009, in the various military districts, the Civic Education and Social Action Service of the Armed Forces of the Democratic Republic of the Congo has trained 350 peer training officers in human rights and international humanitarian law. Furthermore, pursuant to article 45, sixth and seventh paragraphs, of the Constitution of the Democratic Republic of the Congo, human rights are taught both at Kananga Military Academy and Kinshasa Staff College. Moreover, the Ministry of National Defence and Veterans' Affairs and the

Ministry of Justice and Human Rights, with the support of their international and national partners (the United Nations Organization Stabilization Mission in the Democratic Republic of the Congo, among others), regularly organize human rights training sessions for the benefit of judges and justice officials in particular. In addition, the Congolese Universities Administrative Board, the body responsible for developing university curricula, recently approved a Faculty of Law course on human rights.

Recommendation 6

The State party should take all necessary steps to strengthen its capacity to protect civilians in the zones of armed conflict, especially women and children. Relevant guidelines should be made available to all members of the armed forces and human rights training should be made compulsory for all members of the State party's armed forces. The State party should prevail upon the States of origin of MONUC troops suspected of having committed acts of sexual abuse to open inquiries into the matter and take the appropriate measures.

96. In order to strengthen protection of the civilian population, in particular women and children, against violence, the Government has set up units of the Special Police for the Protection of Women and Children, which currently operate in the east of the country and which are due to be deployed across the whole of the national territory.

97. As to training, during the period 2010-2013 a number of training sessions were held to strengthen the capacities of court clerks, bailiffs and criminal investigation officers, resulting in the creation of the National Judicial Support Unit within the military justice system and the introduction of human rights and international humanitarian law into the training programmes of all military and national police training schools.

Recommendation 7

The State party should strengthen, in particular, its efforts to increase access to health services. The State party should ensure that health-care personnel receive better training.

98. In order to facilitate access to health care for Congolese citizens, the Government has made efforts in the following spheres: equipment and renovation of 66 general referral hospitals and 330 health centres, with the support of the United Nations Children's Fund (UNICEF) and the Global Alliance for Vaccines and Immunization; renovation of a further 120 general referral hospitals and 1,280 health centres, with the support of the Global Fund; and renovation of the Kinshasa Medical Teaching Institute, which is now a national pilot institution for the teaching of health sciences.

99. The Government has taken a number of steps to support the public health sector, including in the field of malaria prevention and treatment (distribution of treated mosquito nets), a mass vitamin A supplementation campaign, disinfestation using Mebendazole, the establishment of minimum conditions for emergency surgery and emergency obstetric care, large-scale campaigns and the provision of medical kits for persons living with HIV/AIDS, and vaccination campaigns against tuberculosis and poliomyelitis.

100. Between 2010 and 2011, male life expectancy rose from 48 to 53 years, while female life expectancy rose from 48 to 56 years (*sources*: World Health Organization (WHO) and United Nations Development Programme (UNDP)).

101. Furthermore, the Democratic Republic of the Congo has put in place:

- A national strategy to combat maternal and infant mortality;
- An action plan on reproductive health, gender and population for 2008-2012.

Recommendation 8

The State party should open inquiries into any forced disappearance or arbitrary execution reported to it, appropriately prosecute and punish the perpetrators of such acts and grant effective reparations including appropriate compensation, to victims or their families (articles 6, 7 and 9). It should also strengthen measures to curb the displacement of civilian populations.

102. Rebel forces, in particular the March 23 Movement, the Allied Democratic Forces/National Army for the Liberation of Uganda, the Lord's Resistance Army and the Democratic Forces for the Liberation of Rwanda, used repression to impose their authority in the areas they previously occupied, resorting to acts of violence, such as enforced disappearances and/or summary executions.

103. The various arrest warrants issued by the Democratic Republic of the Congo against the leaders of those rebel forces, namely General Janvier of the Alliance of Patriots for a Free and Sovereign Congo, Colonel Vianney Kazarama, Colonel Ruzandiza, alias Makenga Sultani, Colonel Kahasha, Colonel Bernard Byamungu and Colonel Sabimana, all of whom are currently residing in a neighbouring country, have not produced any results.

Recommendation 9

The State party should define, as soon as possible, the concept of "torture" and make torture a criminal offence. An inquiry should be opened in each case of alleged torture, and the perpetrators of such acts should be prosecuted and punished appropriately. Effective reparations, including adequate compensation, should be granted to victims.

104. The Democratic Republic of the Congo made torture an autonomous offence through the promulgation of Act No. 11/08 of 9 July 2011 on the criminalization of torture. Since the enactment of that legislation, the Democratic Republic of the Congo has been firmly committed to combating that scourge.

105. For example, at least five members of the Armed Forces of the Democratic Republic of the Congo, one National Intelligence Agency officer and one administrative authority have been convicted for having practised or encouraged torture. In that regard, sentences ranging from 6 months' to life imprisonment have been handed down by courts in the provinces of Bas-Congo, Equateur, Kasaï-Occidental, Kasaï-Oriental, Katanga and Maniema.

106. Finally, from July 2012 to November 2013 the Ministry of Justice and Human Rights organized a national information campaign on the Act criminalizing torture for the defence and security forces and prison service officials.

Recommendation 10

The State party should pursue its efforts to eradicate these phenomena. Information on steps taken by the authorities to prosecute child traffickers and eliminate the forced recruitment of minors into the armed forces and rehabilitate and protect the victims, among other things by reinforcing the activities of the National Commission for the Demobilization and Reintegration of Child Soldiers (CONADER), should be provided in the next periodic report.

107. An Action Plan to end the recruitment and use of children and other serious violations of the rights of the child by the Armed Forces and the Security Services of the Democratic Republic of the Congo was jointly signed on 4 October 2012 by the Democratic Republic of the Congo and the Office of the Special Representative of the Secretary-General for Children and Armed Conflict. Under that Plan, children associated with armed forces and groups, in particular the Maï-Maï/Bakata Katanga, the March 23

Movement and the Allied Democratic Forces/National Army for the Liberation of Uganda, were separated from the adult members of those movements.

108. In order to eradicate trafficking in children, under article 162 of Act No. 09/001 of 10 January 2009 on the protection of children, child traffickers can be sentenced to 10 to 20 years' imprisonment and a fine of 500,000 to 1,000,000 Congolese francs.

Recommendation 11

The State party should ensure that its practice with regard to detention and oversight of the legality of detention conforms to all the provisions of article 9 of the Covenant. All unauthorized holding cells or centres should be closed immediately. Precise details on steps taken to ensure respect in practice for the rights of persons held in police custody, and on methods of supervising the conditions of such detention, should be provided in the next periodic report.

109. To a certain extent, unauthorized detention centres no longer exist. Holding cells are regularly inspected by justice officials and persons in police custody are, thus, brought before a judge and freed where appropriate. However, owing to the state of continuous warfare affecting the country and geographical constraints affecting the location of police stations and prosecution services, the State is unable to take appropriate measures, particularly in the interior of the country. Nevertheless, the Government is currently making efforts in that regard, including through the National Campaign for the Humanization of the Congolese National Police Force in the Democratic Republic of the Congo and the launching of a project to build modern police stations in Kinshasa that will gradually be extended to the provinces.

110. Mention should also be made of circular No. 001/D008/IM/PGR of 31 March 2006 on the new models for *procès-verbaux de saisie de prévenu* (documents issued by the Prosecutor General stipulating that detainees should be informed of their rights and of the charges levelled against them) and the provisional arrest warrant of the Attorney-General of the Republic, ordering criminal investigation officers and Public Prosecution Service officials to comply with the provisions of article 18, first and second paragraphs, of the Constitution, which state that: "All arrested persons must be informed immediately of the reasons for their arrest and of any charges brought against them, in a language that they understand. They must immediately be informed of their rights"; and article 150, first paragraph, which states that: "The judiciary is the guarantor of citizens' individual freedoms and fundamental rights", read in relation to article 9 of the International Covenant on Civil and Political Rights.

Recommendation 12

The State party should ensure that conditions of detention in the country's prisons are compatible with the United Nations Standard Minimum Rules for the Treatment of Prisoners, and that prisoners are adequately fed. The country's prisons should also be modernized.

111. The Democratic Republic of the Congo is working to improve conditions of detention in prisons. In that regard, the Ministry of Justice and Human Rights issued Judicial Organization Order No. 029/CAB/MIN/J&DH/2013 of 28 January 2013 on the establishment, organization and functioning of local budget management oversight committees for central and provincial prisons and detention camps. The Order introduces significant innovations in relation to prison management in that it establishes a committee in every prison to manage funds allocated for prisoners' meals.

112. In the interests of good governance, each management committee is made up of:

- The Provincial Governor, or his or her representative;
- The Attorney-General;
- The Head of the Provincial Division of Justice;
- The Prison Warden and two representatives of civil society;

113. With regard to infrastructure and with a view to solving the problem of prison overcrowding, the Democratic Republic of the Congo, with the support of partners, has undertaken refurbishment and construction work in prisons. Notably, it has done so in Goma prison in Nord-Kivu Province, Dungu prison in Orientale Province, Makala prison in Kinshasa and the two military prisons of Ndolo in Kinshasa, and Angenga in Equateur. With regard to the outdated texts governing the penitentiary system, the Democratic Republic of the Congo is currently engaged in a prison reform process, placing priority emphasis on the revision of the Ordinance-Law on the penitentiary system of 17 September 1965 and the training of prison staff.

114. The Government has made clear its determination to improve the situation in regard to inmates' health through the adoption of national policies on health in the prison system.

Recommendation 13

The State party should abolish military courts for ordinary offences. It should fight the corruption of judges, recruit and train enough judges to ensure the proper administration of justice throughout the territory of the Republic, fight crime and impunity, and allocate sufficient budgetary resources for the administration of justice.

115. The military courts, which formerly dealt with all ordinary offences, were abolished under the provisions of article 376 of Act No. 023-2002 of 18 November 2002 on the Military Judicial Code.

116. Article 1 of the above-mentioned Act establishes a number of new military courts, namely:

- Police military tribunals;
- Garrison military tribunals;
- Military courts and operational military courts;
- The High Military Court;
- The Human Rights Liaison Body established by Decree No. 09/35 of 12 August 2009.

117. In accordance with article 156 of the Constitution of the Democratic Republic of the Congo, these military courts only deal with offences committed by members of the Armed Forces or the national police. At the same time, unlike under the previous regime, article 91 of Organic Act No. 13/011-B of 11 April 2013 on the organization, functioning and jurisdiction of the courts of law, empowers the Court of Appeal to hear cases of war crimes, crimes of genocide and crimes against humanity committed by civilians falling under its jurisdiction.

118. In this context, those judges found guilty of corruption following disciplinary proceedings or convicted in proceedings for judicial misconduct, for example, are systematically dismissed, in accordance with their conditions of employment. In addition, in order to protect members of the judiciary from solicitation, the Government has made efforts to improve their living and working conditions. Accordingly, salaries have been increased by 20 per cent on average for all 4,000 civil and military judges.

119. With regard to the administration of justice throughout the national territory, the Democratic Republic of the Congo has recruited and trained 2,000 judges, 400 of whom are women, following a competitive examination process. Judges were appointed by presidential order on 1 June 2013 to make the newly established district, commercial, children's and labour courts operational.

Recommendation 14

The State party should guarantee freedom of speech and of the press and other media, and ensure that any restriction on press and media activities is strictly compatible with the provisions of article 19, paragraph 3, of the Covenant.

120. In order to guarantee freedom of expression and the media, article 23 of the Constitution provides that everyone has the right to freedom of expression. This right implies the freedom to express one's opinions or beliefs orally, in writing or through images, subject to respect for the law, public order and morality.

121. On the basis of article 212 of the Constitution, the Democratic Republic of the Congo established the Higher Audiovisual and Communications Council, an institution to support democracy, under Organic Act No. 11/2011 of 1 January 2011. This institution is responsible for ensuring freedom and protection of the press and all mass media in accordance with the law.

Recommendation 15

The State party should respect and protect the activities of human rights defenders and ensure that any restriction on their activities is compatible with the provisions of articles 21 and 22 of the Covenant.

122. The Democratic Republic of the Congo has undertaken efforts in the area of protection of both journalists and human rights defenders. In this regard, several legal and regulatory texts have been adopted concerning the activities of human rights defenders.

123. These texts include:

- Act No. 13/011 of 21 March 2013 on the establishment, organization and operation of the National Human Rights Commission;
- Decree No. 09/35 of 12 August 2009 on the establishment, organization and operation of the Human Rights Liaison Body;
- Ministerial Order No. 219/CAB/MIN. J&DH/2011 of 13 June 2011 on the establishment, organization and operation of the Unit for the Protection of Human Rights Defenders, pending adoption of the bill on the protection of human rights defenders.

Recommendation 16

The State party should further develop and strengthen the programme for the care of orphans, especially by public organizations, referred to in paragraph 273 of the report. It should also appropriately punish any person guilty of abusing such orphans.

124. With respect to the care of street children and children without families, the Democratic Republic of the Congo has taken the following legislative and regulatory initiatives:

- Act No. 09/001 of 10 January 2009 on the protection of children;
- Decree No. 13/008 of 23 January 2013 on the establishment of a national humanitarian coordination framework;

- Order No. R90/024/GC/CAB.MIN/AFF.SAH6.SN/09 of 9 November 2009 on the implementation of the national guidelines for the protection and care of children in situations of family breakdown;
- Ministerial Order No. 143 of 10 November 2010 on the establishment of the steering committee for the street children project;
- Ministerial Order No. 63/CAB.MIN/AFF.SAH.SN/2012 of 17 September 2012 on the establishment, organization and functioning of the social workers' corps of the Democratic Republic of the Congo. Furthermore, a number of strategies have been put in place, including the strategy for the implementation of the National Youth Policy and the Strategic Plan for Development, Literacy and Non-Formal Education (2012-2016, 2020), which is already being implemented. The Democratic Republic of the Congo has adopted and implemented the National Action Plan for Orphans and Vulnerable Children and a strategic and financial plan for the social protection of vulnerable persons, including children without families;
- The establishment of juvenile courts under Act No. 09/001 of 10 January 2009 whose seats were established under Prime Ministerial Decree No. 11/01 of 5 January 2011.

125. The Democratic Republic of the Congo has taken effective measures to prevent children from being accused of witchcraft, through the provisions of article 160 of Act No. 09/001 of 10 January 2009 on the protection of children, which provides that: "Anyone who maliciously and publicly ascribes to a child a specific act liable to damage the child's honour and dignity shall be punished by a prison sentence of 2 to 12 months and a fine of between 200,000 and 600,000 Congolese francs. Anyone who accuses a child of witchcraft shall be punished by a prison sentence of between 1 and 3 years and a fine of between 200,000 and 1,000,000 Congolese francs."

Recommendation 17

The State party should continue taking appropriate steps to improve or establish, as the case may be, an effective system of civil status registries, including for adults and older children not registered at birth.

126. In order to support activities related to the improvement or establishment of an effective system of civil registries, several free registration campaigns have been conducted, as have awareness campaigns on the importance and procedures of birth registration within and outside the legal time limits.

127. In order to meet this obligation, the Democratic Republic of the Congo has set up mobile units, established a proxy registration system for births in maternity hospitals and ensured cooperation between the health services and the services of the Ministry of the Interior.

128. Other measures taken to improve the system for the civil registration of children include:

- The organization of combined birth registration and immunization;
- The establishment and operationalization of branch civil registry offices;
- An improved monitoring service for action and local follow-up in relation to children's rights;
- Free civil registration of children within 90 days after birth.

Recommendation 18

The State party is urged to provide detailed information in its next report on measures envisaged or taken to promote the integration of minorities and the protection of their rights and to guarantee respect for their cultures and dignity.

129. In general, the Forestry Code of 29 August 2002 guarantees forestry rights to all Congolese persons without distinction of any kind. Under article 84 of the Code, the attribution of any forestry concession is subject to a prior public survey aimed at determining the nature and scope of the rights that third parties may hold in respect of the forest in question, with a view to possibly compensating such parties.

130. The interests of Pygmies are taken into account in the same way as those of any other section of the Congolese population defined in the Code as a "local community". Similarly, the imperatives of protecting the environment are taken into account in the relevant provisions of the Code, including title IV, which deals with the protection of forests. With regard to remedies, the rights granted to all Congolese persons without distinction under Congolese law, particularly the Decree of 7 March 1960 on the Code of Civil Procedure, the Decree of 6 August 1959 on the Code of Criminal Procedure, the Ordinance-Law of 31 March 1982 on proceedings before the Supreme Court of Justice, and Organic Act No. 13/011-B of 11 April 2013 on the organization, functioning and jurisdiction of the courts of law, also apply to Pygmies as Congolese subjects of law. Article 134 of the Forestry Code strengthens the right of access to justice by recognizing the right of associations representing local communities and accredited non-governmental organizations to exercise the rights accorded to plaintiffs in civil proceedings in relation to acts that constitute a violation of the provisions of the Forestry Code and its implementing measures.

131. The Pygmies are not treated differently in society, as they enjoy the same civil, political and economic rights as all other sectors of the population. Indigenous populations receive treatment in the same health-care facilities as their fellow citizens. The same is true during vaccination campaigns against early childhood diseases. In terms of education, indigenous children attend the same schools as other Congolese children. With regard to employment, indigenous populations work in all professional fields alongside their fellow Congolese citizens. Pygmies are represented in all sectors of national life, including the health sector, public administration, the military and the police, and business; and they are among the most highly skilled civil engineers.

132. With respect to the 2015 Millennium Development Goal theme concerning inclusive education: the way of the future, articles 2 (1), (2) and (3) and 5 (2) of Framework Law No. 14/004 of 11 February 2014 on education provide:

> "The purpose of this Act is to create the conditions necessary for:
>
> - Access to school education by all and for all;
> - The training of elites for harmonious and sustainable development;
> - The eradication of illiteracy.
>
> ...
>
> Its aim is the comprehensive and harmonious development of each individual in order to be useful to themselves and be included in society."